



## COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

<b>COUNCIL MEMBERS</b>	<b>REDEVELOPMENT AGENCY</b>
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Hedy Chang, Mayor Pro Tempore	Hedy L. Chang, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member
Steve Tate, Council Member	Steve Tate, Agency Member

**WEDNESDAY, OCTOBER 15, 2003**

**AGENDA**

**JOINT MEETING**

**CITY COUNCIL SPECIAL AND REGULAR MEETING**

**and**

**REDEVELOPMENT AGENCY SPECIAL MEETING**

**5:00 P.M.**

***A Special Meeting of the City Council and Redevelopment Agency is Called at 5:00 P.M. for the Purpose of Conducting Closed Sessions.***

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**Dennis Kennedy, Mayor/Chairman**

**CALL TO ORDER**

(Mayor/Chairperson Kennedy)

**ROLL CALL ATTENDANCE**

(City Clerk/Agency Secretary Torrez)

**DECLARATION OF POSTING OF AGENDA**

**Per Government Code 54954.2**

(City Clerk/Agency Secretary Torrez)

**5:00 P.M.**

## ***City Council Action and Redevelopment Agency Action***

### **CLOSED SESSION:**

**1.**

#### **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Sections 54956.9(b) & (c)  
Number of Potential Cases: 4

**2.**

#### **EXISTING LITIGATION**

Authority: Government Code section 54956.9(a)  
Case Name: Oregon Mutual v. Morgan Hill Unified School District et al.  
Case No.: Santa Clara County Superior Court #1-03 CV 005398

**3.**

#### **EXISTING LITIGATION**

Authority: Government Code section 54956.9(a)  
Case Name: City of Morgan Hill et al. v. Hearing Board of the Bay Area Air Quality Management District, et al  
Case Number: AO 102518, Court of Appeal of the State of California First Appellate District

### **OPPORTUNITY FOR PUBLIC COMMENT**

### **ADJOURN TO CLOSED SESSION**

### **RECONVENE**

### **CLOSED SESSION ANNOUNCEMENT**

**7:00 P.M.**

#### **SILENT INVOCATION**

#### **PLEDGE OF ALLEGIANCE**

#### **PRESENTATIONS**

Certificates of Commendation  
Officer Erin McNish and Officer Gary Smith  
*Police Lieutenant Booten*

Open Space Authority  
*Alex Kennett and Pat Congdon*

#### **ANNOUNCEMENTS**

Evening of the Arts -Tuesday, October 21, 2003  
*Mayor Kennedy*

**CITY COUNCIL REPORT**

Council Member Carr

**CITY COUNCIL SUB-COMMITTEE REPORTS**

**CITY MANAGER'S REPORT**

**CITY ATTORNEY'S REPORT**

**OTHER REPORTS**

**PUBLIC COMMENT**

**NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.**

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME  
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND  
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE  
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY  
COUNCIL/REDEVELOPMENT AGENCY.**

## ***City Council Action***

**CONSENT CALENDAR:**

**ITEMS 1-17** The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

**Time Estimate**

**Page**

**Consent Calendar: 1 - 10 Minutes**

1. **RESOLUTION TO AUTHORIZE THE CITY MANAGER TO APPLY FOR DISASTER ASSISTANCE FUNDS FROM STATE OFFICE OF EMERGENCY SERVICE (OES) WHEN APPROPRIATE UNDER STATE DISASTER ASSISTANCE REGULATIONS** ..... 1  
**Recommended Action(s): Adopt** Resolution Which Authorizes the City Manager to Apply for Disaster Assistance Funds from the State in the Event of Future Disasters Affecting the City of Morgan Hill.
2. **MEMORANDUM OF UNDERSTANDING BETWEEN CITY OF MORGAN HILL AND SANTA CLARA COUNTY FOR CERTAIN PROGRAM FUNDS FOR EMERGENCY PREPAREDNESS** ..... 5  
**Recommended Action(s): Authorize** the City Manager to Execute a Memorandum of Understanding Between the City of Morgan Hill and the County of Santa Clara for the Administration of Certain Pass-Through Funds for Emergency Preparedness.
3. **AQUATICS CENTER PROJECT – SEPTEMBER CONSTRUCTION PROGRESS REPORT** ..... 13  
**Recommended Action(s): Information** Only.

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<b>Time Estimate</b>	
<b>Consent Calendar: 1 - 10 Minutes</b>	
4. <b><u>REPLACEMENT PURCHASE OF POLICE VEHICLE</u></b> .....	21
<b>Recommended Action(s): <u>Authorize</u></b> Vehicle Purchase Through the State of California General Services Procurement Process for the Vehicle Identified in Staff Report For a Total Cost of \$31,668.00.	
5. <b><u>APPOINTMENT OF SUBCOMMITTEE FOR ETHICS WORKSHOP</u></b> .....	23
<b>Recommended Action(s): <u>Appoint</u></b> Two Council Members to Work with City Attorney on Agenda for Substance of Ethics Workshop to be Held on November 11, 2003.	
6. <b><u>AWARD OF CONTRACT FOR PARADISE PARK IMPROVEMENT PROJECT</u></b> .....	25
<b>Recommended Action(s):</b>	
1. <b><u>Award</u></b> Contract to Sanchez Grading General Contractor in the Amount of \$163,974 for Construction of Paradise Park Improvements; and	
2. <b><u>Authorize</u></b> a \$12,000 Construction Contingency.	
7. <b><u>APPROVAL OF SUBDIVISION IMPROVEMENT AGREEMENT WITH MORGAN HILL LAND, L.L.C. – CONDIT ROAD (APN 728-17-019)</u></b> .....	27
<b>Recommended Action(s):</b>	
1. <b><u>Approve</u></b> the Subdivision Improvement Agreement; and	
2. <b><u>Authorize</u></b> the City Manager to Sign the Agreement on Behalf of the City with Morgan Hill Land, L.L.C., Condit Road (APN 728-17-019).	
8. <b><u>ACCEPTANCE OF BUTTERFIELD BOULEVARD SEWER TRUNK PROJECT</u></b> .....	39
<b>Recommended Action(s):</b>	
1. <b><u>Accept</u></b> as Complete the Butterfield Boulevard Sewer Trunk Project in the Final Amount of \$320,210.23; and	
2. <b><u>Direct</u></b> the City Clerk to File the Notice of Completion with the County Recorder's Office.	
9. <b><u>ACCEPTANCE OF FISCAL YEAR 2001-2002 TRAFFIC SIGNALIZATION PROJECT</u></b> .....	43
<b>Recommended Action(s):</b>	
1. <b><u>Accept</u></b> as Complete the 2001-2002 Traffic Signalization Project in the Final Amount of \$496,494.75; and	
2. <b><u>Direct</u></b> the City Clerk to File the Notice of Completion with the County Recorder's Office.	
10. <b><u>UPDATE OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (MEASURE P)</u></b> .....	47
<b>Recommended Action(s): <u>Continue</u></b> the Discussion of the Proposed Amendments to the Draft Initiative to November 5, 2003.	
11. <b><u>STATUS OF GOALS ADOPTED BY THE CITY COUNCIL ON FEBRUARY 26, 2003</u></b> .....	49
<b>Recommended Action(s):</b>	
1. <b><u>Accept Report</u></b> on the Status of Goals Adopted by the City Council on February 26, 2003; and	
2. <b><u>Direct</u></b> Staff to Report Back on Implementation Status in January 2004.	
12. <b><u>UPDATE ON DEVELOPMENT PROCESSING SERVICES STUDY IMPLEMENTATION</u></b> .....	57
<b>Recommended Action(s):</b>	
1. <b><u>Accept Report</u></b> on the Implementation Status of Development Processing Services Study Recommendations; and	
2. <b><u>Direct</u></b> Staff to Report Back on Implementation Status in April 2004.	

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
13.	<b><u>EMERGENCY AUTHORIZATION FOR ROADWAY REPAIR AND RESURFACING OF EAST DUNNE AVENUE</u></b> .....	69
	<b><u>Recommended Action(s):</u></b>	
	1. <b><u>Adopt</u></b> Resolution Declaring the Need for This Emergency Expenditure; and	
	2. <b><u>Approve</u></b> Expenditure Not-to-Exceed \$100,000 for Emergency Roadway Repair and Resurfacing of East Dunne Avenue from Holiday Drive to the East City Limit.	
14.	<b><u>ADOPT ORDINANCE NO. 1637, NEW SERIES</u></b> .....	73
	<b><u>Recommended Action(s):</u></b> <b><u>Waive</u></b> the Reading, and <b><u>Adopt</u></b> Ordinance No. 1637, New Series, and <b><u>Declare</u></b> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA-03-07: CENTRAL-CENTRAL PARK (APN 726-27-104 &amp; 105).</b>	
15.	<b><u>ADOPT ORDINANCE NO. 1638, NEW SERIES</u></b> .....	77
	<b><u>Recommended Action(s):</u></b> <b><u>Waive</u></b> the Reading, and <b><u>Adopt</u></b> Ordinance No. 1638, New Series, and <b><u>Declare</u></b> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 03-08 FOR APPLICATION MP 02-24: SUNNYSIDE-QUAIL CREEK (APN 767-29-006).</b>	
16.	<b><u>APPROVAL OF SPECIAL CITY COUNCIL MEETING MINUTES FOR SEPTEMBER 24, 2003</u></b> .....	81
17.	<b><u>SEPTEMBER 2003 FINANCE AND INVESTMENT REPORT</u></b> .....	83
	<b><u>Recommended Action(s):</u></b> <b><u>Accept</u></b> and <b><u>File</u></b> Report.	

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

#### **ITEMS 18-19**

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	Consent Calendar: 1 - 10 Minutes	
18.	<b><u>APPROVAL OF JOINT SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES FOR SEPTEMBER 24, 2003</u></b> .....	109
19.	<b><u>APPROVAL OF JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES FOR OCTOBER 1, 2003</u></b> .....	131

## City Council Action

### PUBLIC HEARINGS:

	Time Estimate		Page
20.	5 Minutes	<b><u>VACATION OF A PORTION OF BARRETT AVENUE</u></b> ..... Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <b><u>Adopt</u></b> Resolution Vacating a Portion of Barrett Avenue.	165
21.	10 Minutes	<b><u>GENERAL PLAN AMENDMENT APPLICATION: GPA-02-08: MONTEREY-PINN BROTHERS</u></b> (Item tabled 9/17/03) ..... Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <b><u>Adopt</u></b> Resolution Denying General Plan Amendment.  Action- <b><u>Adopt</u></b> Resolution Approving Adjustment to Boundary Between Multi-Family Medium and Commercial General Plan Land Use Designations.	171
22.	10 Minutes	<b><u>ZONING AMENDMENT AND DEVELOPMENT AGREEMENT APPLICATIONS ZA-02-12/DA-02-11: NINA LANE-CHEN</u></b> ..... Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <b><u>Approve</u></b> Mitigated Negative Declaration.  Action- <b><u>Motion to Waive</u></b> the Reading in Full of Zoning Amendment Ordinance. Action- <b><u>Motion to Introduce</u></b> Zoning Amendment Ordinance by Title Only. (Roll Call Vote)  Action- <b><u>Motion to Waive</u></b> the Reading in Full of Development Agreement Ordinance. Action- <b><u>Motion to Introduce</u></b> Development Agreement Ordinance by Title Only. (Roll Call Vote)	197
23.	15 Minutes	<b><u>ZONING AMENDMENT APPLICATION ZA-03-13: CITY OF MORGAN HILL – ZONING TEXT AMENDMENT -ATTACHED HOUSING</u></b> ..... Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <b><u>Motion to Waive</u></b> the Reading in Full of Ordinance Amending Section 18 of the Municipal Code to Allow Modified Setback Dwellings. Action- <b><u>Motion to Introduce</u></b> Ordinance by Title Only. (Roll Call Vote)	229

## City Council Action

### OTHER BUSINESS:

	Time Estimate		Page
24.	15 Minutes	<b><u>STANDARDS FOR INTERIM DEVELOPMENTS</u></b> ..... <b><u>Recommended Action(s): Council Discretion.</u></b>	253

**OTHER BUSINESS:**

	<b>Time Estimate</b>		<b>Page</b>
25.	15 Minutes	<b><u>SENIOR SPACES AT THE INDOOR RECREATION CENTER</u></b> .....	257
		<b><u>Recommended Action(s):</u></b>	
		1. <b><u>Determine</u></b> if the Nutrition Site Remains in the Indoor Recreation Center;	
		2. <b><u>Recognize</u></b> Spaces No Longer Part of the Schematic Design that Affect Programming Specifically for Seniors and Youth; and	
		3. <b><u>Determine</u></b> if Council Wants to Establish Policies Regarding Senior and Youth Programming at Subsidized Levels.	
26.	5 Minutes	<b><u>DEVELOPMENT AGREEMENT WITH MORGAN HILL LAND</u></b> .....	265
		<b><u>Recommended Action(s):</u></b> <b><u>Authorize</u></b> the City Manager to do Everything Necessary and Appropriate to Execute a Development Agreement with Morgan Hill Land, L.L.C.; Including Making Minor Modifications to the Agreement, Subject to Review by the City Attorney.	
27.	10 Minutes	<b><u>CONSIDER REQUEST FROM MORGAN HILL KIWANIS CLUB TO WAIVE SPECIAL EVENT PERMIT FEES</u></b> .....	281
		<b><u>Recommended Action(s):</u></b>	
		1. <b><u>Consider</u></b> Requests to Waive Fees; and	
		2. <b><u>Provide Direction</u></b> to Staff.	
28.	5 Minutes	<b><u>RESIGNATION OF A LIBRARY COMMISSIONER</u></b> .....	285
		<b><u>Recommended Action(s):</u></b>	
		1. <b><u>Accept</u></b> John Boyne's Notice of Resignation from the Library Commission; and	
		2. <b><u>Direct</u></b> Staff with Regards to Filling Vacancy on the Library Commission.	
29.	5 Minutes	<b><u>REQUEST TO SEND LETTER TO THE SANTA CLARA COUNTY CITIES ASSOCIATION, RECOMMENDING CHANGES TO BYLAWS</u></b> .....	289
		<b><u>Recommended Action(s):</u></b> <b><u>Authorize</u></b> Mayor to Send Letter to the Santa Clara Cities Association, recommending that the Bylaws be amended.	

## ***City Council and Redevelopment Agency Action***

**OTHER BUSINESS:**

	<b>Time Estimate</b>		<b>Page</b>
30.	20 Minutes	<b><u>DOWNTOWN REQUEST FOR CONCEPTS PROCESS</u></b> .....	299
		<b><u>Recommended Action(s):</u></b>	
		1. <b><u>Approve</u></b> the Categorization of Proposals; and	
		2. <b><u>Direct</u></b> Staff to Continue with the Process.	

**FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

**ADJOURNMENT**